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In re Application of :
Sanberg et al. :
Application No.: 10/009,036 : DECISION
PCT No.: PCT/US00/06912 :
Int. Filing Date: 16 March 2000 : ON
Priority Date: 27 April 1999 :
Attorney's Docket No.: LAY-014US : PETITION
For: Cell Therapy For Chronic Stroke :
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This is a decision on the "Petition To Withdraw Notification of Abandonment" filed on 10 May 2002.

BACKGROUND

Applicants filed this international application on 16 March 2000, and claimed an earliest priority date of 27 April 1999. The United States was designated. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the thirty-month time period to pay the basic national fee in the United States expired as of midnight on 29 October 2001 (since 27 October 2001 was a Saturday).

On 29 October 2001, applicants filed, *inter alia*, the required basic national fee..

On 22 December 2000, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this application had become abandoned with respect to the United States for failure to timely respond to the Notification of Missing Requirements mailed on 21 September 1999.

On 17 April 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the United States because "Applicant has failed to provide the Copy of the International Application by 20 months (37 CFR 1.494(b)(2))."

Applicants filed the instant petition on 10 May 2002.

DISCUSSION

Petitioner urges that the Notification of Abandonment was improper because a copy of the international application was filed on 29 October 2001, and because the USPTO "should also have received a publication copy pursuant to Article 13 of the Patent Cooperation Treaty."

Review of the postcard evidence of record reveals that applicant was not required to submit a copy of the international application under 35 U.S.C. 371(a), although the postcard evidence of record shows that the USPTO acknowledged receipt of a copy on 29 October 2001. As such, the Notification of Abandonment was improper and is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).



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